

General Information Letter: Illinois allows a credit for taxes paid by a resident to other states on income taxed by Illinois, including (beginning in 2006) wages paid in this State.

July 19, 2006

Dear:

This is in response to your email to the Governor's Office of Citizens Assistance dated July 11, 2006, which was forwarded to me for response. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at [www. tax.illinois.gov](http://www.tax.illinois.gov).

In your email you have stated the following:

The following appeared in our company newsletter for July. "Are you traveling to NY State for business? To comply with state tax laws and regulations, COMPANY is required to withhold New York State taxes for the days worked in New York for any U.S. employee who comes into New York State for business purposes and is in New York for more than 14 cumulative days throughout the year. Therefore, employees who travel outside their resident state in 2006 to work in New York State for business purposes will need to record the number of days worked in New York State in myHR>Time & Schedule. For more details, check out the Important Information article "Are you Traveling to NY State on Business?" on the Welcome Page at myHR workforce portal <https://workforce.COMPANY.com>." My reading of this implies that income I am paid while visiting our corporate headquarters for training/meetings will be subject to New York State tax if I am in New York for more than 14 days out of the year. To date this year I have spent 7 days in that state for training and anticipate more. Is New York taking advantage of the Income Tax system to the detriment of just me or also to the State of Illinois? If I have partial pay in New York would they not keep the income tax? Does Illinois lose it or do I become the one with the loss due to the two states? As an individual, this is a small amount. However, if looking across the multitudes of Illinois residents that spend time in New York, it could be very costly to the state of Illinois. Is there anything that can be done?

Response

I cannot give you an opinion regarding the issues of whether your employer is correctly applying New York withholding law or whether you will be subject to New York income tax on your salary. However, if you are an Illinois resident and New York does tax you on part of your salary, you are entitled to a credit under Section 601(b)(3) of the Illinois Income Tax Act (35 ILCS 5/601) for the taxes you pay to New York. The amount of the credit cannot exceed the Illinois tax on the portion of your income that is taxed by both New York and Illinois, and New York tax rates are higher than Illinois rates, so you will bear some of the burden of the New York tax. The credit is computed on Schedule CR.

If you look at the 2005 Schedule CR, please note that the instructions do not reflect a recent change in the law. The old law did not allow a credit for taxes paid to another state on your salary if your salary was "paid in Illinois" under the guidelines in the Booklet 700, Illinois Withholding Tax Guide. Under those guidelines, your entire salary is "paid in Illinois" if you are based in Illinois and you only travel to New York for occasional training or meetings. Accordingly, under the old law, you would not have been allowed any credit under the circumstances you describe. This particular provision of the law has been repealed, effective January 1, 2006, so that you will be allowed a credit for taxes paid to New York on any salary paid to you while you are an Illinois resident. The 2006 instructions will be changed to reflect this change in the law.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel – Income Tax